

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RAYMOND WALLS,

Plaintiff,

V.

**CORPORATION FOR NATIONAL AND
COMMUNITY SERVICE,**

Defendant.

4:06CV3082

ORDER

This matter is before the court on defendant's motion to dismiss or in the alternative for summary judgment (Filing No. 6). Plaintiff brought this case in small claims court of Lancaster County seeking monetary damages from the alleged wrongful termination of an educational grant he was awarded by defendant. Defendant removed the case to federal court. Because this case was removed from small claims court, plaintiff will be given the opportunity to serve the defendants correctly and amend his complaint.

The plaintiff is directed to file an amended complaint on the form provided by the Clerk of Court. A portion of the complaint directs plaintiff to set forth how he has exhausted his administrative remedies if exhaustion is a prerequisite for filing this lawsuit.

Furthermore, while defendant has raised important points in its motion to dismiss, the court will not decide this case based on the submission of a small claims court complaint. Therefore, the motion to dismiss is denied without prejudice, subject to reassertion after plaintiff is given an opportunity to properly serve the defendant and amend his complaint.

THEREFORE, IT IS ORDERED:

1. That the defendant's motion to dismiss (Filing No. 6) is denied without prejudice.
2. That the Clerk of Court shall send a copy of this order together with three summons forms, to be completed in accordance with Fed. R. Civ. P. 4(l) regarding "[s]erving the United States, Its Agencies, Corporations, Officers, or Employees," for service of process on the United States.
3. That the Clerk of Court shall send the plaintiff a complaint form to be completed by plaintiff and filed with the court by July 25, 2006.
4. That the defendant shall answer or otherwise respond to the complaint within the 60-day period prescribed by Fed. R. Civ. P. 12(a)(3).

DATED this 12th day of July, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Judge

Notice regarding Federal Rule of Civil Procedure 4(l)

Federal Rule of Civil Procedure 4(l) regarding “[s]erving the United States, Its Agencies, Corporations, Officers, or Employees,” states:

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons **and** of the complaint to the **United States attorney for the district in which the action is brought** or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney

Michael Heavican, Esq.

U.S. Attorney for the District of Nebraska

1620 Dodge Street, Suite 1400

Omaha, NE 68103

and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the **Attorney General of the United States** at Washington, District of Columbia,

U.S. Attorney General

Main Justice Building

10th & Constitution Ave., N.W.

Washington, D.C. 20530

and

(2)(A) by also sending a copy of the summons and complaint by registered or certified mail to the officer, employee, agency, or corporation.

45 C.F.R. 1201.3 regarding serving the Corporation for National and Community Service states that:

(a) Only the Corporation's General Counsel or his/her designee (hereinafter "General Counsel"), is authorized to receive and accept summonses or complaints sought to be served upon the Corporation or its employees. **All such documents should be delivered or addressed to General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Suite 8200, Washington, DC 20525.**